

SEP 12 1990

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**ORIGINAL**

No. 88-7247

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1988

BRYAN STUART LANKFORD,

Petitioner,

v.

STATE OF IDAHO,

Respondent.

(a)

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On Petition for a Writ of Certiorari  
to the Supreme Court of Idaho

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## PETITIONER'S SUPPLEMENTAL AUTHORITY

Since the filing of Petitioner's Brief and Reply Brief, additional case authority has emerged, which supports a grant of certiorari, particularly with respect to the third question presented: the constitutionality of relying on extra-record information in a capital sentencing proceeding.

The Eleventh Circuit has held that reliance on such information at sentencing, even in a noncapital case, violates the Constitution. United States v. Castellanos, 882 F.2d 474 (11th Cir. 1989). The Tenth Circuit has held to the contrary, in the context of noncapital sentencing proceedings, explicitly distinguishing capital sentencing in light of Gardner v. Florida, 430 U.S. 349 (1977). United States v. Beaulieu, 893 F.2d 1177, 1180 n.5 (10th Cir. 1990), cert. denied 58 U.S.L.W. 3834 (U.S., June 26, 1990). As Justice White pointed out in his opinion dissenting from the denial of certiorari in Beaulieu, this conflict among the Circuits and the highest state courts, regarding the existence and extent of a right to confrontation at the sentencing stage of capital cases, is a matter of sufficient importance and concern to warrant this Court's review.

For that reason and those previously submitted, certiorari should be granted here.

Respectfully submitted,

By   
Timothy K. Ford  
Attorney for Petitioner

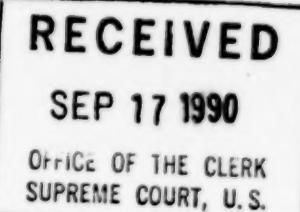
September 12, 1990.

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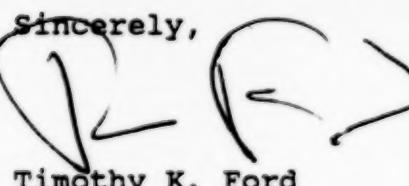
September 12, 1990

Joseph F. Spaniol, Jr., Clerk  
Supreme Court of the United States  
1 First Street N.E.  
Washington, D.C. 20543

Re: Lankford v. Idaho, No. 88-7247

Dear Mr. Spaniol:

Enclosed is an original and ten copies of a Supplemental Memorandum Supporting Certiorari on behalf of the Petitioner in this case, together with a certificate of its service on the Respondent's counsel. Please bring this matter to the Court's attention at your earliest convenience.

Sincerely,  
  
Timothy K. Ford

TKF/lS  
Enclosures

cc: Lynn Thomas, Esq.  
Joan Fisher, Esq.  
Bryan Lankford

No. 88-7247

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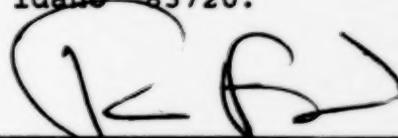
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CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that on the 12th day of September, 1990, I served a true and correct copy of the Petitioner's Supplemental Authority, by placing the same in the United States Mail, first class postage prepaid, addressed to Lynn E. Thomas, Solicitor General, State of Idaho, Boise, Idaho 83720.



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Timothy K. Ford  
Attorney for Petitioner